



A.R.S. § 49-104. *Powers and duties of the department and director*

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to assure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Assure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Assist the department of health services in recruiting and training state, local and district health department personnel.
15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.



17. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This provision shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.
2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.
3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.
4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.
5. Contract with other agencies, including laboratories, in furthering any department program.
6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.
7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.
8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.
9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.
10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.
11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:
 - (a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.
 - (b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the



standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

- (a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.
- (b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.
- (c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.
- (d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:

- (a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.
- (b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. After July 20, 2011, the department shall establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rule making process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.



16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties.

All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

- (a) The direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.
- (b) The availability of other funds for the duties performed.
- (c) The impact of the fees on the parties subject to the fees.
- (d) The fees charged for similar duties performed by the department, other agencies and the private sector.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

2. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services.

Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

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Authorizing Statute

A.R.S. § 49-106

A.R.S. § 49-106. *Statewide application of rules*

The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them. This section does not limit the authority of local governing bodies to adopt ordinances and rules within their respective jurisdictions if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the department, but this section does not grant local governing bodies any authority not otherwise provided by separate state law.

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A.R.S. § 49-406. *Nonattainment area plan*

A. For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code section 134 as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

B. For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

C. For any ozone, carbon monoxide or particulate nonattainment or maintenance area, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall, by November 15, 1992, and from time to time as necessary, jointly review and update planning procedures or develop new procedures.

D. In preparing the procedures described in subsection C of this section, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall determine which elements of each revised implementation plan will be developed, adopted, and implemented, through means including enforcement, by the state and which by local governments or regional agencies, or any combination of local governments, regional agencies or the state.

E. The department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall enter into a memorandum of agreement for the purpose of coordinating the implementation of the procedures described in subsection C and D of this section.

F. At a minimum, the memorandum of agreement shall contain:

1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.
6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.



11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:

- (a) Demographics.
- (b) Transportation.
- (c) Emissions inventories.
- (d) Assumptions used in developing the model.
- (e) Results of modeling done in support of the plan.
- (f) Monitoring data.

G. Each agency that commits to implement any emission limitation or other control measure, means or technique contained in the implementation plan shall describe that commitment in a resolution adopted by the appropriate governing body of the agency. The resolution shall specify the following:

- 1. Its authority for implementing the limitation or measure as provided in statute, ordinance or rule.
- 2. A program for the enforcement of the limitation or measure.
- 3. The level of personnel and funding allocated to the implementation of the measure.

H. The state, in accordance with the rules adopted pursuant to section 49-404, and the governing body of the metropolitan planning organization shall adopt each nonattainment or maintenance area plan developed by a certified metropolitan planning organization. The adopted nonattainment or maintenance area plan shall be transmitted to the department for inclusion in the state implementation plan provided for under section 49-404.

I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

J. After adoption of a nonattainment or maintenance area plan, if, on the basis of the reasonable further progress determination described in subsection F of this section or other information, the director determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, and that the control officer has failed to act pursuant to subsection I of this section, the director shall issue a written finding to the person and shall provide an opportunity to confer. If the director subsequently determines that the failure has not been corrected, the attorney general, at the request of the director, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

K. Notwithstanding subsections A and B of this section, in any metropolitan area with a metropolitan statistical area population of less than two hundred fifty thousand persons, the governor shall designate an agency that meets the criteria of section 174 of the clean air act and that is recommended by the city



Authorizing Statute

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that causes the metropolitan area to exist and the affected county. That agency shall prepare and adopt the nonattainment or maintenance area plan. If the governor does not designate an agency, the department shall be certified as the agency responsible for the development of a nonattainment or maintenance area plan for that area.